

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA**

**OWENS & MINOR DISTRIBUTION, INC.**

**Plaintiff,**

**v.**

**Civil Action No. 1:23-CV-00109  
Chief Judge Kleeh**

**WESTRIDGE COMMERCE CENTRE  
DEVELOPMENT 2E, LLC,**

**Defendant.**

**INITIAL PLANNING MEETING,  
PROPOSED DISCOVERY PLAN  
AND COMPLETED SCHEDULING ORDER CHECKLIST**

The parties, by their respective counsel, respectfully submit this report from their initial planning meeting and their proposed discovery plan.

1. Pursuant to Federal Rules of Civil Procedure 16 and 26(f), Local Rule of Civil Procedure 16.01(b), and this Court's First Order and Notice Regarding Discovery and Scheduling Conference entered March 26, 2024, the following met on Thursday, April 25, 2024 by telephone conference: **Michael S. Garrison and Kelly J. Kimble of Spilman Thomas & Battle, PLLC (counsel for the Plaintiff) and Kathleen J. Goldman, Jordan M. Webster, Stanley J. Parker, Ashleigh S. Diaz of Buchanan Ingersoll & Rooney LLP and Jamison H. Cooper of Cooper Law Offices, PLLC (counsel for Defendant).**

2. Pre-Discovery Disclosures. As set forth in this Court's First Order and Notice Regarding Discovery and Scheduling Conference entered March 26, 2024, the parties will exchange the information required by Federal Rule of Civil Procedure 26(a)(1) and Local Rule of Civil Procedure 26.01(a) by **May 27, 2024.**

3. Discovery Plan. Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the parties jointly propose to the Court the following discovery plan:

a. Discovery is needed as to all matters raised in the pleadings.

b. The parties do not anticipate that this case will require special procedures for the discovery of electronically stored information. The parties reserve the right to modify the requirements of this paragraph by agreement or by motion.

c. The parties agree that the assertion of privilege should be governed by Rule 26.04 of the Local Rules of Civil Procedure for the United States District Court for the Northern District of West Virginia.

d. Discovery on liability and damages may commence following the parties' Rule 26(f) conference. Discovery shall be completed on or before **March 3, 2025**.

e. Each party shall have a maximum of 25 interrogatories to be served on any other party. Answers shall be due 30 days after service. The parties reserve the right to modify the requirements of this paragraph by agreement or by motion.

f. Each party shall have a maximum of 25 requests for admission to be served on any other party. Responses shall be due 30 days after service. The parties reserve the right to modify the requirements of this paragraph by agreement or by motion.

g. Reports from retained experts under Rule 26(a)(2) shall be due:

Party with burden by **February 14, 2025**.

Party without burden by **March 14, 2025**.

Any rebuttal reports from experts are due by **March 31, 2025**.

Expert depositions will be completed by **April 15, 2025**.

h. Inspections and Physical/Mental Examinations by **April 1, 2025**.

i. Supplementations under Rule 26(e) shall be made seasonably.

4. Other Items.

a. The parties request a post-discovery status conference in **April, 2025**.

- b. The parties request a pretrial conference in **July, 2025**.
  - c. All dispositive motions shall be filed by **May 15, 2025**.
  - d. Settlement **can** be evaluated prior to the conclusion of discovery.
  - e. Settlement may be enhanced by use of the following alternative dispute resolution procedure(s): **non-binding mediation**.
  - f. Rule 26(a)(3) Disclosures. Final lists of witnesses, designation of witnesses whose testimony will be introduced by deposition, and exhibits should be disclosed on or before **June 30, 2025**.
  - g. Parties should have **14 days** after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).
  - h. The case should be ready for trial by **August, 2025**, and at this time is expected to take approximately **five (5) days**.
5. Matters discussed in accordance with Rules 16.01(b)(1-5) and 16.01(c) of the Local Rules of Civil Procedure for the United States District Court for the Northern District of West Virginia. The parties agree that this matter is not complex and will not require monitoring in an individualized and case-specific manner.
- a. At this time, the parties have not reached agreement as to the disputed facts.
  - b. The parties do not agree to consent to trial by Magistrate Judge.
  - c. The parties considered available alternative dispute resolution procedures. At this time, the parties believe non-binding mediation **on or before the close of discovery** may be beneficial in this case.
  - d. If the Court determines that a scheduling conference is appropriate, the parties propose the following agenda of matters to be discussed: the dates proposed above and in the attached Scheduling Order Checklist.

Dated this 9th day of May, 2024.

**JOINTLY PREPARED AND AGREED TO BY:**

**OWENS & MINOR DISTRIBUTION, INC.**

**By Spilman Thomas & Battle, PLLC**

/s/ Kelly J. Kimble  
Michael S. Garrison (WVSB #7161)  
Kelly J. Kimble (WVSB #7184)  
48 Donley Street, Suite 800 (Zip 26501)  
P.O. Box 615  
Morgantown, West Virginia 26507  
Telephone: 304-291-7920  
Facsimile: 304-291-7979  
[mgarrison@spilmanlaw.com](mailto:mgarrison@spilmanlaw.com)  
[kkimble@spilmanlaw.com](mailto:kkimble@spilmanlaw.com)

**WESTRIDGE COMMERCE CENTRE  
DEVELOPMENT 2E, LLC**

**By Cooper Law Offices, PLLC**

/s/ Jamison H. Cooper  
Daniel C. Cooper (WVSB #5476)  
Jamison H. Cooper (WVSB #8043)  
240 West Main Street  
Bridgeport, WV 26330  
Telephone: (304) 842-0505  
Facsimile: (304) 842-0544  
[dan.cooper@cooperlawwv.com](mailto:dan.cooper@cooperlawwv.com)  
[jami.cooper@cooperlawwv.com](mailto:jami.cooper@cooperlawwv.com)

and

**Buchanan Ingersoll & Rooney LLP**

/s/ Jordan M. Webster

Kathleen J. Goldman (WVSB #6917)

Jordan M. Webster (WVSB #14114)

Stanley J. Parker (admitted *pro hac vice*)

Ashleigh S. Diaz (admitted *pro hac vice*)

501 Grant Street, Suite 200

Pittsburgh, PA 15219

Telephone: (412) 562-8800

Facsimile: (412) 562-1041

[kathleen.goldman@bipc.com](mailto:kathleen.goldman@bipc.com)

[jordan.webster@bipc.com](mailto:jordan.webster@bipc.com)

[stanley.parker@bipc.com](mailto:stanley.parker@bipc.com)

[ashleigh.diaz@bipc.com](mailto:ashleigh.diaz@bipc.com)

## **SCHEDULING ORDER CHECKLIST**

JOINDER AND AMENDMENTS		<u>December 9, 2024</u>
EXPERT DISCLOSURE		
Party with Burden		<u>February 14, 2025</u>
Party without Burden		<u>March 14, 2025</u>
Rebuttal		<u>March 31, 2025</u>
Expert depositions	Before -	<u>April 15, 2025</u>
EXAMINATIONS/INSPECTIONS		<u>April 1, 2025</u>
DISCOVERY COMPLETION		<u>March 3, 2025</u>
MEDIATION	Before -	<u>March 3, 2025</u>
DISPOSITIVE MOTIONS		<u>May 15, 2025</u>
Responses		Within 21 days of filing of motion
Reply		Within 10 days of filing of Response
PRETRIAL DISCLOSURES, FED R. CIV PRO 26(a)3		<u>June 30, 2025</u>
Objections		Within 14 days of filing of Disclosures
PROPOSED JURY INSTRUCTIONS, VOIR DIRE VERDICT FORMS and SPECIAL INTERROGATORIES		<u>June 23, 2025</u>
Objections		<u>July 7, 2025</u>
MOTIONS IN LIMINE		<u>June 23, 2025</u>
Responses		<u>July 7, 2025</u>
BIOGRAPHICAL SKETCHES		<u>July 7, 2025</u>
JOINT FINAL PRETRIAL CONFERENCE ORDER		<u>July 14, 2025</u>
FINAL PRETRIAL CONFERENCE		<u>July, 2025</u>
TRIAL		<u>August, 2025</u>
Number of days needed for Trial		<u>5</u>